

Approved as Submitted: August 23, 2006

**CITY OF MORGAN HILL  
JOINT SPECIAL & REGULAR CITY COUNCIL AND  
SPECIAL & REGULAR REDEVELOPMENT AGENCY MEETING  
MINUTES – JULY 26, 2006**

**CALL TO ORDER**

Mayor/Chairman Kennedy called the meeting to order at 5:00 p.m.

**ROLL CALL ATTENDANCE**

Present: Council/Agency Members Carr, Grzan, Sellers, Tate and Mayor/Chairman Kennedy

**DECLARATION OF POSTING OF AGENDA**

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

***City Council and Redevelopment Agency Action***

**WORKSHOP:**

**1. ECONOMIC DEVELOPMENT STRATEGY**

City Manager/Executive Director Tewes indicated that during the past couple of annual Council goal setting sessions and in Council discussions with him, the Council has talked about the desire to have the opportunity to think more strategically about key issues facing the community. He indicated that in the course of a typical Council agenda and/or Council committee meetings, there is City focus on current problems, and specific issues. He noted the City does not have the opportunity to step back and review long term strategic approaches. He stated that the importance of a "strategy" is that it allows the Council/Agency to focus on items that are important. He said the Council spent several months in drafting and in approving the current Economic Development (ED) Strategy. He noted the current ED Strategy is sufficiently broad. A question the Council can ask is whether the ED Strategy provides enough focus on City's revenues. He said the City has looked at one aspect of economic development and has spent most of its time, somewhat successfully, in improving the City's sales tax revenue to the exclusion of developing the City's economy further by looking at the opportunity of creating various industries, and improving the wealth of the community. He felt the City has spent a lot of time figuring out how to provide places the community can spend its money rather than where it can bank its money. He stated that one thing economic development does, is look at job creation; and developing, expanding, and balancing of industries in the community. He indicated that the Director of Business Assistance and Housing Services will identify the objectives of the workshop this evening. He informed the Council that staff discussed this topic briefly with members of the Community & Economic Development Committee (Committee) who gave staff some thought about how to organize this evening's workshop.

Director of Business Assistance and Housing Services Toy informed the Council/Agency Board that this evening's objectives are to review and revise the ED Strategy to better reflect goals and to maintain the discussion at a policy/goal level. He acknowledged the City's current focus has been retail sales tax generators such as the DiNapoli-Browman retail center and auto dealers. One of the questions before

the Council/Agency Board this evening is whether this focus should be changed, and if so, to what degree.

Council/Agency Member Sellers indicated that the Committee spent a fair amount of time reviewing major initiatives. He recommended the Council/Agency Board stay at the policy level and not talk about individual projects or small scale economic development. Further, that the Council/Agency Board continue to focus on the larger policy issues; looking at the major economic development policies, and giving overall direction to staff such that they can implement the direction of the Council/Agency Board.

Council/Agency Member Carr said that it would be beneficial to him, as a member of the Committee, to understand the items the Council/Agency Board would like the Committee to look at further and get into the details as contained within the plan.

Mr. Toy proceeded with a power point presentation; presenting an overview of the ED Strategy. He indicated that most of staff time will be spent in providing the Council/Agency Board with economic development indicators. Should time allow, staff would touch briefly on economic development inhibitors, with the assistance of the Chamber of Commerce and the Committee. He summarized the ED Strategy; stating that staff focused on policy issues and categories related to definitions. Under each policy issue, staff provided its perspective on some of the key issues and provided recommendations for a course of action. He said that based on the input received this evening, the Council/Agency Board is requested to refer the ED Strategy to the Committee for further discussion and refinement. The Committee is to return to the Council/Agency Board with their recommendations.

City Manager Tewes indicated that the objective for this evening's workshop is to receive input from the Council on whether or not there is a need to revise the ED Strategy. If so, the Council/Agency Board is requested to provide direction to the Committee and staff to work on the revisions. As an alternative, the Council could direct to refocus strategic efforts.

Mayor/Chairman Kennedy referred to goal 2, policy 2c. He noted this policy states "Minimize the impacts that new large retail developments may have on the financial viability of similar businesses in the City, with particular focus on the downtown. No city/agency funds should be expended to minimize the impacts." He felt it to be a strong statement to state that no city or agency funds should be expended to minimize impacts. He inquired whether this statement was too restrictive. Was the concept of using city funds for studies or additional evaluations the basis for this statement?

Mr. Toy said that it was staff's recollection that when the Council had the original discussion in 2002 regarding the ED Strategy, this was one option. Staff recommended a strategy and offered this statement as an option. It was his recollection the Council decided it wanted to include the policy for the downtown. He indicated that the City does spend money on studies and different items in the downtown area.

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Mayor/Chairman Kennedy requested the Committee revisit this particular statement. He noted the policy statement contains acronyms such as: ED Committee, EDC, and C&ED. He recommended the City use a consistent acronym; noting that it appears the Committee is using different acronyms for the same term(s).

### Creation of Wealth

Mr. Toy noted that staff identified sales tax generators; indicating the City would capture as much retail leakage as possible. Staff recommends the City continue to provide ombudsman services to existing retail centers; focus on auto development north of the Ford Store; and provide less emphasis on other retail development in town. He indicated that sales tax leakage is occurring in general retail (e.g., apparel, office supplies, and appliances).

Mayor Pro Tempore/Vice-chair Grzan said that if prevention of leakage is one of the goals of the ED Strategy and the City has information that suggests specific areas, he inquired why the City is not addressing these specific areas. If the City lacks a retail appliance store, what is the City doing to actively fill this void?

City Manager/Executive Director Tewes inquired whether it would be a goal to address the categories of leakage. He noted the existing strategy talks about leakage. Staff has focused on this by trying to encourage the development of a regional shopping center. Once built, the City will have made great strides in addressing the issue of sales tax leakage to the greatest extent possible. He inquired whether the Council wants to make sure the City has the right number(s) of a particular store(s) desired.

Mayor Pro Tempore/Vice-chair Grzan said that it would be good for the Council to address the ED Strategy in general broad terms. He stated that he would like to capture sales tax leakage being lost to other cities (e.g., encouraging an appliance store to locate in Morgan Hill etc.).

Council/Agency Member Sellers said that as a rule, leakage occurs for one of two major reasons: 1) there are barriers to providing particular services (e.g., zoning not in place for a particular use); and 2) there is an excess of retail in adjacent communities. He acknowledged there is a sales tax leakage, but that the barrier to bringing these tax dollars back into the community is higher now than it was a few years ago because they exist in an adjacent community. The City may need to consider significant public assistance in order to bring uses to the community. He felt the Council has to keep in mind the general desires of the community. He noted the community desired a Trader Joe's, but that some community members did not support the addition of auto dealerships. He said the Council can deal with the sales tax leakage issues, but that it is not a matter of stating the City will focus on this and complete this goal by the end of the year. He stated that there are significant barriers to this goal and that the Council needs to understand what the barriers are before setting a policy direction.

In response to Mayor/Chairman Kennedy's question, City Manager/Executive Director Tewes said that the recommendations are primarily staff driven and that they were not reviewed by the Committee.

Mr. Toy informed the Council that it was the Committee's belief that it might be helpful if staff were to make recommendations in order to stimulate Council/Agency Board discussion.

Council/Agency Member Tate referred to the statement "less emphasis on retail development." He did not believe there should be less emphasis on retail development. He recommended the phrase "a re-evaluation of retail development" be replaced with a "wait and see" statement.

Mr. Toy clarified that staff is not going out to try and find a developer who could develop another neighborhood shopping center. However, should an individual approach the City expressing an interest in developing a shopping center, staff would provide assistance.

Mayor/Chairman Kennedy noted the City has another major intersection at Tennant and Highway 101. He inquired why the City would not continue to focus on retail development.

City Manager/Executive Director Tewes said that this is an example of a policy question staff is trying to determine. Does the Council want staff to try and assemble land and pursue a developer to build a regional shopping center at Tennant/Highway 101, or take a wait and see approach.

Mayor/Chairman Kennedy felt the City needs to focus on the project that is moving forward and to make sure that it is developed properly. He said the City may need to ease up from its marketing efforts. He suggested the first focus should be getting the DiNapli project completed. However, the City should not give up on marketing other potential sites for retail, including the Tennant/Highway 101 interchange.

Council/Agency Member Tate agreed the City should not be "shaking the bushes." However, should an individual/developer approach the City about development, the City should be interested in talking to them.

Council/Agency Member Sellers recommended the statement be amended to read: "Focus on market driven retail development." He clarified that this would mean that should an individual approach the City expressing an interest in developing on Tennant/Highway 101, the City could inform the individual that the City is also interested. This would be a market driven approach as opposed to trying to manipulate the market.

Mayor Pro Tempore/Vice-chair Grzan said that he does not object to giving staff clear direction to become more aggressive in certain areas to pursue. In looking at the policy statements in place, he felt they cover almost every issue. He said the Council/Agency Board is asking a lot to be done, but does not know how staff can achieve all goals until such time the Council/Agency focuses on a few items and achieve these items. He was not sure whether the Council/Agency Board gave staff clear direction and empowerment to do the things the Council/Agency Board wants them to do.

Mayor/Chairman Kennedy felt that Council/Agency Member Sellers' suggestion may address Mayor Pro Tempore/Vice-chair Grzan's concern: a market driven approach. He felt there were major markets that are void in the community such as major electronic suppliers as Ikea, Bass Pro, etc. He did not recommend the City focus on bringing in whatever it can, but to focus on a market.

Mayor Pro Tempore/Vice-chair Grzan expressed concern that as the City moves toward specific projects, it is driving businesses away. He felt the City needs to be successful in its own way; while maintaining the small town, rural atmosphere. While building a big box retail outlet on Tennant Avenue may be a great economic boost for the community, he felt it would detract from the small town environment that is cherished. He felt that a conflict and challenge exists in maintaining Morgan Hill what it is today; maintaining it for the future without giving it up for retail or some other type of development.

Council/Agency Member Carr does not see a great conflict as he does not want to see what Mayor Pro Tempore/Vice-chair Grzan describe take place. He noted the City has two shopping centers it is currently working on that may capture a lot of the retail leakage. He indicated the Council has been talking a lot about sales tax dollars over the past year. He said that ever since the Council developed an economic development strategy, there has been discussion about what types of services are available for the residents of Morgan Hill. He felt that this was just as important, if not more important, than merely capturing sales tax dollars. As staff works with the two centers, he would like to see these centers try to capture the retail leakage. If someone came to the City with an idea for development at Tennant Avenue, the City may want to slow this development down until the City sees how successful the current projects will be; including keeping a close eye on the downtown. If there are ways the City can focus on some of the market needs, based upon sales tax leakage studies, he recommended the City focus on these before focusing on new shopping center opportunities that may come forward at the intersections of the freeway; giving focus to the projects already started before proceeding with a new area.

Mayor Pro Tempore/Vice-chair Grzan inquired whether the City wants to pursue big box retail in the downtown.

Council/Agency Member Sellers said that there are opportunities for a diverse retail climate in the downtown. He felt it would be almost impossible to attract large retail businesses in the downtown. However, one or two larger retailers such as Pottery Barn or Restoration Hardware as anchors would be a significant catalyst. He did not believe the City would be able to attract a Costco or a retail business of this nature in the downtown partly for physical reasons and because their models would not allow them to locate in the downtown.

Mayor Pro Tempore/Vice-chair Grzan inquired whether the structure of the downtown could be changed to address parking required by large retail.

Council/Agency Member Carr did not believe it to be a population issue, but the physical nature of the downtown. Changing the downtown to provide additional parking required for a large retailer would change the character and the face of the downtown. These are not the goals he proposes for the downtown.

Mayor Pro Tempore/Vice-chair Grzan envisions downtown retail working in combination with housing. He noted the Council previously discussed the success of Santa Row. He recommended the City consider some of this philosophy in the downtown; providing assistance and incentives for larger retailers to work with the City in this regard.

Council/Agency Member Sellers said that he has visited almost every business located in Santa Row; determining whether the businesses are national retailers, local retailers or one of a kind business. He found that Santa Row is a combination of these businesses. He felt that one or two national retail businesses would fit well with some of the local retail businesses and enhance these businesses. He said that the key is to attract a nationally recognized retail business versus big box businesses.

Council/Agency Member Carr said that he was assuming that when Mayor Pro Tempore/Vice-chair Grzan was talking about large retail, he was addressing physical square footage. It may be that Mr. Grzan was talking about name recognition. He agreed that should the City be able to attract 2-3 large name retail businesses in the downtown, they would act as catalysts for the downtown. He recommended that this become a goal.

Mayor Pro Tempore/Vice-chair Grzan clarified that he would like to attract anchor point retail businesses in the downtown (not the physical size of retail businesses).

**Action:**        *It was the consensus of the City Council/Agency Board to **delete** the last bullet point and **include** a bullet point to state that the City will focus on market driven retail. The Community & Economic Development Committee to return with more details.*

#### Commercial/Industrial Development

Mr. Toy indicated that there are 75 vacant acres remaining in the Morgan Hill Business Ranch. Staff recommends the following: 1) focus on reuse and tenant improvements (TIs) in older buildings; 2) start planning for the location(s) of future industrial area(s); and 3) consider mixed use for the vacant 75 acres; maintaining the same amount of commercial/industrial square footage.

City Manager/Executive Director Tewes noted that there is a market for residential homes. Therefore, some cities are making a great effort to convert industrial designated land to residential lands. These pressures remain, even in Morgan Hill. Staff is suggesting the City try and find a way to address the issues about residential demands without giving up on the opportunity for well planned industrial areas.

Mayor/Chairman Kennedy stated his support of City Manager/Executive Director Tewes' concept.

Mayor Pro Tempore/Vice-chair Grzan inquired whether the 75 acres currently vacant is a significant amount of land in terms of accommodating a big company to locate/relocate in Morgan Hill.

Mr. Toy said that staff has received inquiries from companies looking for approximately 75-100 acres. He noted that 75 acres is not much area of industrial land, in general. He recommended the City protect these 75 acres. He said that staff does not see a demand for manufacturing or warehouse facilities. He felt that interest would be toward R&D office type development.

Mayor Pro Tempore/Vice-chair Grzan noted the City has the southeast quadrant to talk about in terms of a manufacturing/industrial area. He inquired whether this area is where the emphasis will move; maintaining the business park for R&D type uses.

City Manager/Executive Director Tewes said that since the City has changed its long range planning horizon, the City is establishing the urban limit line beyond which the City will ever urbanize. Therefore, the City will be engaging a long term planning effort in order to make sure that within the urban limit line there is sufficient industrial land included to meet the demand for a long time. He said the City is trying to encourage development of an industrial area in the southeast area. However, staff would like to make sure the City preserves enough industrial space within the ultimate urban limit line.

Mayor/Chairman Kennedy noted the staff report talks about the creation of wealth in commercial and industrial development. He looks at the creation of wealth in sales tax generators (revenues to the general fund), not necessarily in jobs.

Mr. Toy clarified that wealth would translate into additional investment into the community and into the building; noting that TIs will need to be installed in order to upgrade the building and meet current standards. He clarified that this is a broad category.

Mayor/Chairman Kennedy stated that he was comfortable with staff's recommendation as identified.

**Action:**        *It was the consensus of the Council/Agency Board to concur with staff's recommendation.*

### Downtown Development

Mr. Toy stated that downtown sales tax revenue is flat; indicating that in 2001, it peaked at \$100,000+ and has been at approximately \$90,000 for the past three years. Although the downtown does not generate significant sales tax revenue, the downtown affords the quality of life, and is the heart/soul of the community. He felt this is what brings a lot of individuals to patronize the downtown businesses. He noted the Council allocated housing units in the downtown and will consider the formation of a PBID later this evening. Further, improvements are being made along Depot Street, including a commitment of a Third Street promenade. Staff recommends the City continue with existing efforts and activities for the downtown. Should a Redevelopment Plan amendment be approved this year, this will provide the City with the resources needed to provide improvements to the downtown.

Council/Agency Member Sellers noted that staff referenced the Plan Amendment, and that staff addressed the improvements being made/to be made to Depot and Third Street. There has been a lot of talk about parking, lighting and related infrastructure improvements for the downtown. He recommended that this be included as a statement; placing emphasis on infrastructure improvements. Infrastructure improvements could include parking, traffic mitigation measures and related issues.

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**Action:**        *It was the consensus of the Council to add an emphases on infrastructure improvements in the downtown.*

### Business Attraction

Mr. Toy inquired whether the City wants to attract specific industries. Does the Council want to see new businesses occupy existing spaces? Does the Council/Agency Board want to take a look at incubators? He stated that staff proposes to conduct a study to try and get a better feel for what the City has. As an alternative, the City could try to figure out and create what type of industry is desired. However, this approach would be difficult. Staff recommends: 1) the City take a look at what it has and then decide which way to go. 2) The City to continue its “ombudsman” services in order to encourage companies to come to Morgan Hill. 3) Less emphasis to be placed on the incubator concept because it is expensive and there are no guarantees the companies will stay in Morgan Hill. 4) Conduct a preliminary study to assess the industry mix to better evaluate which industries to target. 5) Less emphasis to be placed on responding to all “blanket” inquiries as they take a lot of time. Staff believes it would be better to focus its efforts on interested companies.

Council/Agency Member Tate questioned the need for proceeding with studies to figure out which industry the City wants to target. He inquired whether the study would result in meaningful results.

Mr. Toy noted the City has a diverse economic base.

Council/Agency Member Sellers said that the City is in the verge of having a world renown research institute coming to town. If the City is going to proceed with a study, he felt the City would be foolish not to focus on this future addition. He said that without the research institute existing in the Peninsula, the area would not have developed or become known as “Silicon Valley.” He felt it reasonable to expect that a major research institute would attract other businesses. He would like to know if there is a way to quantify the number of businesses to be attracted and then use this information to market what businesses are doing. Should the City is to proceed with a study, he recommended the City focus on research institutes.

Mr. Toy said that it is staff’s belief that it can undertake the study in house; using a graduate intern to provide the base preliminary data. The Council could determine from this information whether it should move forward with the next step. He felt that it could cost \$30,000-\$50,000 to conduct a study by a consultant, depending on the focus of the Council.

Council/Agency Member Carr stated that he would support applying less emphasis on inhibitors. However, in talking about less emphasis on incubators, he felt the City needs to talk to its economic development partner in the Chamber of Commerce. It was his belief the role of responding to blanket inquiries was the role of the marketing arm of the City's Chamber of Commerce partnership. He inquired how the City could rely on its economic development partnership with the Chamber in taking on more of these roles for the City, when appropriate to do so.

Mr. Toy said that the City is assisting the Chamber of Commerce in providing information to blanket inquiries.

City Manager/Executive Director Tewes said that both the City and the Chamber of Commerce spent a lot of time on blanket inquiries. However, at times, inquiries are focused on questions that only the City can respond to.

Mayor/Chairman Kennedy expressed strong support in retaining the ombudsman program in place as it has always been an important issue for him.

**Action:**        *It was the consensus of the Council/Agency Board to agree with the recommendations as outlined.*

#### **Job Creation & Retention**

Mr. Toy indicated that this section relates to more local jobs for residents; attracting more desirable commercial amenities and retailers. He noted that approximately 60% of the City's population commutes more than 30 minutes. Staff recommends the City focus on business retention, and not discuss business attraction under this category.

Council/Agency Member Sellers inquired whether there was an issue with job retention and whether there was an exodus of jobs to a significant degree.

Mr. Toy responded that staff has not seen an issue with job retention.

City Manager/Executive Director Tewes said that staff wants to make sure that as companies grow and prosper, they expand in Morgan Hill. He noted that jobs can be lost because businesses fail. There can be loss in jobs attributed to businesses being so successful and having the desire to move to another community to meet their needs. He said the Chamber of Commerce can be helpful in talking with existing businesses; keeping the City informed of their plans and how well they are doing. This will allow the City to ensure that as businesses grow, they grow in Morgan Hill.

Mayor/Chairman Kennedy recommended the City do what it can to assist businesses grow in Morgan Hill. He did not know whether what was being recommended by staff adequately addressed this issue. He recommended a stronger statement be added.

Council/Agency Member Carr recommended there be discussion about economic development important to helping a business thrive and stay in Morgan Hill (e.g., workforce housing, education, having a place in the downtown where people want to live, transportation, etc.). He felt that if a majority

of employees reside in the community, it would be difficult for businesses to uproot their businesses/employees and move out.

Mayor/Chairman Kennedy indicated that a study of where employees live is being conducted by the Chamber of Commerce. Also, being studied are commute patterns, and ride sharing opportunities. He stated that he prepared a study in 2000, for his employer, on job origin-trip destination for Morgan Hill and Gilroy. He found that a large number of workers commuted to Morgan Hill from Gilroy. A fair number of individuals from Morgan Hill commuted north. It was found that Gilroy was much more self contained in their employee base with a great percentage of the workers living/working in Gilroy. He recommended the City tie into the Chamber's report as it would provide good information.

Council/Agency Member Sellers agreed that a majority of the workforce in Morgan Hill do not reside in Morgan Hill. He noted there are highly skilled workforce/residents in Morgan Hill with a vast majority commuting to other communities everyday. This provides the City with a unique opportunity of retention and new business opportunities to give more thought to the City's residents in terms of the level of education and areas of expertise they bring. He recommended the Committee look at bringing these two items together.

#### Workforce development

Mr. Toy said that this category relates to training the local workforce. In return, this workforce would attract and target a certain industry. Staff believes Morgan Hill already has a well educated and trained workforce in place. He does not believe there should be focus on workforce development. It was his belief the City should market its workforce.

City Manager/Executive Director Tewes said that cities with larger populations are eligible for a variety of state and federal workforce development programs. Therefore, an economic development effort would include workforce development. He indicated the City is not eligible for these funds. Therefore, to the extent there is involvement by the City, it is part of a larger region that is engaged in workforce development. He indicated the City does not focus on this as part of the economic development strategy.

Mayor/Chairman Kennedy noted there is a workforce investment network in Morgan Hill with access to Gavilan College and programs that can be established for employers. He felt the City needs to engage both these entities to help employers ensure they have adequately trained employees. He did not support the recommendation that there be less emphasis in this area. He recommended greater emphasis be placed in working with employers, local educational institutions, and job search providers in order to develop the skills needed. He suggested the City tap into the resources that can be found in the community.

Council/Agency Member Sellers stated that given limited staff resources and financial resources, the Council/Agency Board needs to give consideration to the items in terms of priority, noting that this is a low priority to him.

Mayor/Chairman Kennedy felt there was a way to accomplish this goal without tying up a lot of resources. He suggested making a connection with these entities, having the information available, knowing who to refer to, etc. Further, that a staff member from the Business Assistance and Housing Services Department meet with these entities and establish a relationship.

Mayor Pro Tempore/Vice-chair Grzan noted the County opened a job training center adjacent to the post office recently on a contractual basis.

Mayor/Chairman Kennedy clarified that he was referring to the Silicon Valley Workforce Investment Network that is tied with the Department of Employment and a variety of government funded resources.

### Business Climate

Mr. Toy indicated that this section addresses revising the development process to make it customer friendly and reduce the economic development inhibitors. Staff recommends the Committee take a look at the inhibitors in relationship to what the Council decides at this workshop. The Committee can return with their recommendation to the Council. He indicated the Council will be reviewing the Customer Service Development Audit in August and that recommendations will be presented. Staff would recommend that some of the Audit recommendations be implemented.

**Action:**        *By consensus, the Council/Agency Board agreed with staff recommendation.*

### Quality of Life

Mr. Toy indicated that this section relates to infrastructure development: making sites ready for development, allowing more development in certain locations, and improving/enhancing the community infrastructures to improve quality of life. Improving the quality of life will attract businesses and residents. Staff recommends a Redevelopment Plan amendment in order to provide resources for community improvements. The Redevelopment Agency would then need to prioritize which project(s) should proceed.

Council/Agency Member Sellers recommended the downtown and Monterey Road core from Cochrane to Tennant Avenues be investigated.

### ED Inhibitors

Mr. Toy indicated that this section provided a brief summary of what was contained in the economic development inhibitors memorandum (e.g., retail uses relating to zoning and land use policies; city-wide development, specifically how impact fees may affect projects; downtown development in terms of impact fees affecting development and the design approval process). Staff recommends it be allowed to discuss inhibitors with the Committee. The Committee is to return to the Council with a recommendation(s).

Council/Agency Member Sellers said that the Committee conducted an initial review of the inhibitors at the last meeting and that this will be an ongoing process that will be discussed every month by the Committee. He stated that the Chamber has done a great job in reviewing the inhibitors; raising 3-4 inhibitors at the last Committee meeting.

Mayor/Chairman Kennedy referred to the Memo of July 21, specifically the new list of economic development to ED inhibitors. He knows the Committee and staff have been working on this for some time. He wanted to get a sense of what has been done and what needs to be done.

Mr. Toy said the Committee plans to bring a recommendation for Council approval; including an action plan. Staff would then implement whatever needs to be changed. He said that some actions can be done by minute action while other actions would require changes to the ordinance(s). The Committee and staff would develop a timeline for the action plan and a timeline for what needs to be done.

Mayor/Chairman Kennedy inquired whether there were inhibitors the Committee would like Council direction.

Council/Agency Member Carr said the Committee was interested in going through this work and setting goals for an economic development strategy. The Committee would then go back and look at the inhibitors one more time to see if they require new goals or a new direction. To be determined is whether they remain inhibitors.

#### Customer Service Audit

Mr. Toy addressed the key findings of the Customer Service Audit; with the main focus on why customers are dissatisfied with the process.

Mayor/Chairman Kennedy said that there are times when one gets bogged down in looking for faults and/or finding fault, and the City forgets to focus on what it is doing right.

Mr. Toy said that the Audit recommends the following: putting more information in writing; include a better definition of the appeal process (customer service); and provide tracking performance measures.

City Manager/Executive Director Tewes said that this was an audit of development services, and it was not an audit of economic development. He recommended that real estate development and economic development be thought of broadly. He stated that the development services audit was recommended, following the process audit of a couple of years ago. It is being suggested that to the extent the City can be clear up front and helpful, individuals may be able to understand the process, and how/why decisions are made. It is not just about providing individuals with the fee schedule, but explaining what happens to City resources if fees are not paid. He felt the basic message of the customer service audit is that the City needs to do a better job of explaining, in lay terms, what the City is doing and why. Staff wanted to make sure the Council is aware of the fact that the Audit has been conducted, even though the Council has not yet seen the results of the Audit.

#### Performance Measure

Mr. Toy pointed out that when it comes to economic development, this is the toughest category to come up with measurements that gives you an idea of results. Part of the issues are the timelines and data.

#### Resource Impact

Mr. Toy said that depending on Council/Agency direction on priorities, it may impact existing resources and may require additional resources or redirection of resources (e.g., time, money and staff). Staff recommends that this be referred to the Committee who will return to the Council/Agency Board with

recommendations relating to the economic development strategy and the economic development inhibitor list.

Mayor Kennedy opened the floor to public comment.

Dan Ehrler, Chamber of Commerce, referred to the “Creation of Wealth.” He stated that he supports the added emphasis on infrastructure with respect to parking and lighting in the downtown. He felt that this was critical as it has been raised in previous conversations and issues before the Council. In terms of the response process and in working with the City, a question was raised by Council Member Carr relative to the Chamber doing certain things. He clarified that the Chamber will receive a call from an individual who wants to bring a business to Morgan Hill, or they want to start a business in Morgan Hill. He stated that there is certain information City staff has, and that he and staff meet with the individuals. He addressed the comments relating to placing less emphasis on incubators and/or responding to blanket inquiries. He indicated the Chamber is looking at metal/bio tech possibilities. He felt it important to continue to explore these. He said that there are some inquiries that will have no relevance to Morgan Hill. However, there are some that could have relevance. He does not recommend losing these opportunities. In terms of creation of jobs and partnering with One Stop and Gavilan College, he felt there may be some opportunities in terms of this being a facilitated process. He felt the Chamber and the City can take this on; especially as it relates to the relationship with the various companies in Morgan Hill. Regarding the ride share program, he stated that the priority for 2006-07 will be holding 10 meetings with companies; either individually or in small groups, in order to find out how they are doing, what is needed, and/or what can be done to assist businesses and their employees. It is his hope that economic development inhibitors will be brought back to the Council. The Chamber is looking for potential changes in policies and ordinances as it would be important to do so for existing businesses and businesses coming to Morgan Hill. He felt that decreasing the inhibitor list will be critical. He stated that the Chamber is grateful for the efforts being made by the City in the economic development partnership.

Randy Toke informed the Council that he is the chief financial officer for a company coming to Morgan Hill in the next 2-3 months, serves on the Chamber’s Board of Directors, and is a member of the Chamber’s Economic Development Committee. He said that there are many charges and improvements that go into the cost of bringing businesses to Morgan Hill. The most important question to ask is how much will it cost to come to Morgan Hill. He noted that Morgan Hill has high land values and that the more costs you add to land values, the more difficult it is for businesses. He heard the other day that VTA is looking at bringing reverse commute from the south to Morgan Hill. This could provide an affordable labor supply to businesses. He stated that a list of economic development inhibitors can be reviewed, but that the Council needs to look at the entire picture; including the cost of land, the fees to be charged, cost of labor, and whether it is prudent for a business to come to Morgan Hill. He said that Santa Row is an artificial concept. He indicated that Santa Row rents are high, but that businesses had very little costs to get into the retail center. He noted there was talk about the customer service audit relating to an appeal process. Although Morgan Hill is blessed with incredible staff that he enjoys working with, reasonable minds can differ. He felt there needs to be a process in place that works quickly, efficiently, and fairly; a process that is measured in a week. It is his understanding that when there is a disagreement, the individuals who set the standards are asked to look at the issue and recalculate fees. He did not believe these individuals should be the final arbitrators of their own decisions. He noted the community has competing values. It was his belief that when you have new development, general plan amendments and zoning changes, it would be appropriate to ask for many

things to make the community better. However, he did not believe it would be appropriate to require imposition of fees or other types of improvements when you have developed parcels and you are trying to fill empty buildings. He stated that it is important to look at costs and how quickly a business can get in and be opened for business.

Craig Van Kuelen requested the Council go back and look at the general plan designation for none retail commercial as it was his belief there was confusion, and that adequate notice was not given to individuals; particularly to land owners. He stated that the land use designation description talks about properties at the corners of intersections, but the properties that are affected are the properties between the intersections. He requested the Council consider whether there really is a problem that needs to be fixed, or does the City want to create another hurdle for retail businesses to go through. He felt that this zone change would impact “mom and pop” businesses and not big box tenants. He recommended the City consider exemptions for spaces of 1,500 square feet or less, or a certain percentage of the total square footage of a center. If you look at how the land use designation and the zoning ordinance is being implemented, you will see that retail uses are being allowed. However, it is a situation where the City would be creating a zoning ordinance and land use designation that would allow a retail use the City may not desire. He felt that staff has done a great job, but requested the Council give consideration to whether or not this was an appropriate general plan land use amendment. If the City believes it was, he recommended the Council give consideration to exceptions from the stand point of square footage for tenants that would allow the mom and pop businesses to locate in this zoning district without having to go through significant hurdles. Should the Council believe the City needs to retain this land use/zoning designation, he recommended that an administrative process be included as opposed to a conditional use permit process which could be expensive and may result in losing a potential tenant.

Alex Kennett applauded the Council/Agency Board for taking a macro approach to this matter. He recommended the Council/Agency Board consider looking outside the box, looking at where the City needs to be 15-20 years from now and work backwards from this point. This will allow the Council to address all the needs and approaches. He noted that a marketing approach was mentioned. However, a problem with a market approach is that by the time you get around to it, the market changes. He felt that decisions need to be global and include everything mentioned this evening, and then some. He stated that he has advocated for a version of a Santa Row, but that this does not mean it has to be a 10-story facility. The city has to plan for its version of what a Santa Row should be in order to make individuals comfortable and that it fits in with the community. He thanked the Council for working with the Chamber of Commerce and that he looks forward to working with the City in the future.

No further comments were offered.

### **RECESS**

Mayor/Chairman Kennedy recessed the meeting at 6:48 p.m.

### **RECONVENE**

Mayor/Chairman Kennedy reconvened the meeting at 7:05 p.m.

### **SILENT INVOCATION**

## **PLEDGE OF ALLEGIANCE**

## **INTRODUCTIONS**

Steve Rymer introduced Chris Ghione, Centennial Recreation Center Supervisor.

## **CITY COUNCIL REPORT**

Mayor Pro Tempore Grzan reported the following:

- He will be assisting Steve Rymer, Recreation and Community Services Director, in taking the Little Llagas Creek Wildlife Nature Trail concept before the Parks & Recreation Commission next month and to the Library, Cultural & Arts Commission the following month. He stated that he will be promoting the restoration of Little Llagas Creek in order to turn it into a wonderful opportunity for Morgan Hill to celebrate and preserve its open space.
- He took a tour of the Wastewater Treatment Plant; indicating that it is near capacity. He said that efforts are in place to expand its capacity based on the investment of a partnership with the City of Gilroy to build a mutual water treatment facility years ago. He indicated that the last time the South County Regional Wastewater Authority met, he was elected chair of this committee.
- As chair of the Utilities & Environment Committee, he reported that the City almost maxed out on its ability to pump water to the community. This brought the City to a serious emergency situation that will be addressed later this evening. He stated that water continues to be a precious commodity in the community and California. The Committee will continue to pursue ways of conserving water within the community.
- He has been an advocate for drought tolerant native California plants throughout city facilities. He recommended the City consider the use of drought tolerant native California plants not only for public facilities, but as a potential for private development to consider as well. He felt the more we blend in with our natural surroundings with landscaping, plant fauna and low drought tolerant native California plants, the better we will be able to preserve the water supply and have it available during emergency situations. The Committee will be looking at this recommendation.
- He noted there was a significant heat wave occurring all across America. This brought to mind the global warming is not 100-200 years away, but here today. He recommended the necessary steps be taken to make sure Morgan Hill is doing its part not to contribute to global warming. Further, that the City look at energy as well. He recommends aggregating the community's energy needs to provide energy to the community at a lower cost, sometime in the future. Further, that the community conserves water/energy in planning for the future; making sure that these resources are adequate for the City.

Mayor Pro Tempore Grzan indicated that the Committee is looking at all of the above listed items and will be returning to the Council with a recommendation on policies in this regard.

## **OTHER REPORTS**

None.

### **CITY MANAGER REPORT**

City Manager Tewes acknowledged that many citizens of Morgan Hill experienced power outages; some for several days. He stated that citizens have shared their frustrations with City staff. He stated that staff will be talking to PG&E about their investment plans for the plant located in Morgan Hill so that modern pieces of equipment are put into place in order to withstand similar circumstances. He indicated that as the City Manager, he has been unsatisfied with the level of information he has been able to obtain from PG&E. He informed the Council that he has been in touch with PG&E representatives and that in the after action reports, he will be following up on how PG&E can provide better information. If this is a precursor to a larger emergency in the event of an earthquake or a natural disaster, the City will not be adequately served by the type of information it received. He stated that staff would be following up on these items.

### **CITY ATTORNEY REPORT**

City Attorney Kern indicated that she did not have a City Attorney's report to present this evening.

## **PUBLIC COMMENT**

Mayor/Chairman Kennedy opened the floor to public comment for items not appearing on this evening's agenda.

Charles Weston indicated that he is a Vietnam Veteran and that he has appeared before the Council in the past requesting the POW-MIA flag be allowed to be flown without penalty. He said the ordinance in place states that the American flag is the only flag that can be flown in Morgan Hill. He requested the Council review the ordinance and find a way to include the POW-MIA flag in the ordinance as it is a reminder to everyone about the consequences of war.

Evonne Davenport stated that she is in attendance this evening representing the Morgan Hill DOG owner group to invite the Council to the "Walk a Pooch" fundraiser event to be held at Community Park on August 12.

Council Services & Records Manager Torrez, on behalf of the Centennial Committee, invited the City Council, City staff and the community to the next Centennial Event - a Community Barbeque & Birthday Party to be held on Saturday, August 5 from 12-9 p.m. at the Community & Cultural Center. There will be an old fashion BBQ, food booths, vintage transportation, kids and family games and live entertainment, featuring the Joe Sharino Band at 6:00 p.m. There will also be a centennial birthday cake for all to enjoy.

No further comments were offered.

## ***City Council and Redevelopment Agency Action***

### **ADOPTION OF AGENDA**

Mayor Kennedy indicated that there has been a request to move item 22 forward. He said that if there is no opposition by the Council/Agency Board, item 22 will be considered following the conclusion of the Consent Calendar. No opposition to this suggested agenda modification was noted.

## ***City Council Action***

### **CONSENT CALENDAR:**

**Action:**            *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Approved** Consent Calendar Items 1-12 as follows:*

2. **ACCEPTANCE OF FARALLON DRIVE STORM DRAIN AND MISCELLANEOUS STORM DRAIN REPAIR PROJECT**  
*Action: 1) **Accepted** as Complete the Farallon Drive Storm Drain System and Miscellaneous Storm Drain Repair Project in the Final Amount of \$367,973.; and 2) **Directed** the City Clerk to File the Notice of Completion with the County Recorder's Office.*
3. **ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9602, MISSION RANCH PHASE VII**  
*Action: 1) **Adopted** Resolution No. 6034, Accepting the Subdivision Improvements Included in Tract 9602, Commonly Known as Mission Ranch Phase VII; and 2) **Directed** the City Clerk to File a Notice of Completion with the County Recorder's Office.*
4. **PRELIMINARY JUNE 2006 FINANCE AND INVESTMENT REPORT-CITY**  
*Action: **Accepted** and **Filed** Report.*
5. **AMENDMENT TO IMPROVEMENT AGREEMENT WITH LUSAMERICA**  
*Action: **Approved** Amendment to the Improvement Agreement with Lusamerica and **Authorized** the City Manager to Sign the Amendment on Behalf of the City; Subject to Review and Approval by the City Attorney.*
6. **ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9500, TUSCANY MEADOWS**  
*Action: 1) **Adopted** Resolution No. 6035, Accepting the Subdivision Improvements Included in Tract 9500, Commonly Known as Tuscany Meadows; and 2) **Directed** the City Clerk to File a Notice of Completion with the County Recorder's Office.*
7. **PUBLIC WORKS LANDSCAPE MAINTENANCE AGREEMENT FOR FISCAL YEAR 2006-2008**  
*Action: 1) **Approved** Maintenance Agreement for Grounds and Landscape Maintenance Services for Fiscal Years 2006-2007 and 2007-2008 to New Image Landscape Company in the Amount of \$281,065; and 2) **Authorized** the City Manager to Execute an Agreement on behalf of the City; Subject to Review and Approval by the City Attorney.*
8. **RESOLUTION OF SUPPORT FOR ABAG TO CREATE A COUNTYWIDE SUB-REGION WITHIN THE REGIONAL HOUSING NEEDS ALLOCATION PROCESS**  
*Action: **Adopted** Resolution No. 6036, Authorizing the City of Morgan Hill to Become a Member of a Countywide Sub-Region Consortium with the Purpose of Locally Administering the ABAG Regional Housing Needs Allocation Process.*
9. **IMPROVEMENT AGREEMENT WITH MORGAN HILL RETAIL VENTURE L.P.**  
*Action: **Authorized** the City Manager to Execute an Improvement Agreement with Morgan Hill Retail Venture L.P. for the Cochrane Road and Highway 101 Retail Center, Subject to Review and Approval by the City Attorney.*
10. **ADOPT ORDINANCE NO. 1786, NEW SERIES**  
*Action: **Waived** the Reading, and **Adopted** Ordinance No. 1786, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by*

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*Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT TO ESTABLISH A PLANNED UNIT DEVELOPMENT ON A 3.5 ACRE SITE LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF MONTEREY ROAD AND BISCEGLIA AVENUE (APNs 817-01-061, 062, 063 & 064) (ZA-05-09: Church-Alcini).*

**11. ADOPT ORDINANCE NO. 1787, NEW SERIES**

**Action:** Waived the Reading, and Adopted Ordinance No. 1787, New Series, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT APPLICATION DA-05-08 FOR APPLICATION MC 04-15: CHURCH - ALCINI (APN 817-01-061 & 064) (ZA-05-09: CHURCH-ALCINI).**

**12. ADOPT ORDINANCE NO. 1788, NEW SERIES**

**Action:** Waived the Reading, and Adopted Ordinance No. 1788, New Series, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO A PRECISE DEVELOPMENT PLAN FOR AN EXISTING PLANNED UNIT DEVELOPMENT (PUD) ORDINANCE (ORDINANCE NO. 1687) TO ALLOW AN APPROXIMATELY 167,500 SQUARE FOOT ABOVE GROUND MATHEMATICS CONFERENCE CENTER WITH A 34,385 SQUARE FOOT UNDERGROUND GARAGE AND A NEW 185 SPACE SURFACE PARKING LOT TO REPLACE AN EXISTING 121 SPACE PARKING LOT ON AN APPROXIMATELY 54 ACRE SITE LOCATED AT 14830 FOOTHILL AVENUE (APNS 825-30-007 AND 825-29-002) (ZAA 03-03: FOOTHILL – THE INSTITUTE).**

## ***Redevelopment Agency Action***

### **CONSENT CALENDAR:**

**Action:** On a motion by Agency Member Tate and seconded by Agency Member Sellers, the Redevelopment Agency Board unanimously (5-0) Approved Consent Calendar Items 13-15, as follows:

**13. PRELIMINARY JUNE 2006 FINANCE AND INVESTMENT REPORT-RDA**

**Action:** Accepted and Filed Report.

**14. REQUEST FROM WESTON-MILES ARCHITECTS FOR A LOAN FOR OFF-SITE IMPROVEMENTS**

**Action:** Authorized the Executive Director to do Everything Necessary and Appropriate to Loan Weston Miles Architects up to \$10,000 for Off-Site Improvements for Their Depot and Main Street Project, Subject to the Same Provisions as the Existing Loans.

**15. AUTHORIZATION TO APPLY FOR AND ACCEPT A CALIFORNIA HOUSING FINANCE AGENCY (CalHFA) RESIDENTIAL DEVELOPMENT LOAN FOR HOUSING PROJECTS – Resolution MHRA-262**

**Action:** Adopted Resolution MHRA-262, Authorizing the Executive Director to: 1) Apply to the California Housing Finance Agency (CalHFA) “Residential Development Loan” Program for a Loan of up to \$2,000,000, and 2) Do Everything Necessary and Appropriate to Accept and Execute the Loan Agreements with CalHFA; Subject to Review and Approval by Agency Counsel, if Awarded.

## ***Redevelopment Agency Action***

### **OTHER BUSINESS:**

**22. OWNER PARTICIPATION AGREEMENT (OPA) WITH GUNTER BUILDING, LLC. FOR THE REDEVELOPMENT OF THE FORMER GUNTER BROTHERS BUILDING**

Director of Business Assistance and Housing Services Toy presented the staff report regarding an owner participation agreement for the renovation of the Gunter Brothers’ building. He informed the Council that the property owner has revised the plans to accommodate a three-story mixed use project with ground floor retail commercial, second floor office and third floor residential. The project has received Architectural & Site Review Board approval for phase I development. He stated that based on the expanded project, it has resulted in a larger financial gap for the project. He addressed the terms of the owner participation agreement. He stated that the project would eliminate a blighted structure and would replace the existing building with a building that will enhance the northern gateway to the downtown.

Chairman Kennedy opened the floor to public comment. No comments were offered.

Agency Member Sellers said that this is a challenging project where you try to figure out what to do with an old feed store. He noted the project proponents have stepped forward with a development plan and felt that it would turn into a showcase project. He said that the action before the Agency Board is within the financial parameters and that the office space will be vital to the success of the project.

**Action:** On a motion by Agency Member Sellers and seconded by Agency Member Carr, the Agency Board unanimously (5-0): 1) Authorized the Executive Director to do Everything Necessary and Appropriate to Execute and Implement the Owner Participation Agreement with Gunter Building, LLC. in the Amount of \$462,400; Subject to Review and Approval by Agency Council, and 2) Appropriated \$462,400 from Fund 317.

## ***City Council Action***

**PUBLIC HEARINGS:**

**16. ASSESSMENT OF HAZARDOUS VEGETATION MANAGEMENT PROGRAM CHARGES – Resolution No. 6037**

Council Services & Records Manager Torrez presented the staff report, informing the Council that since 1995, the City's Hazardous Vegetation Management Program has been administered through a contract with Santa Clara County's Department of Agriculture and Resource Management. This evening, the Council will be concluding the 2006-Hazardous Vegetation program by hearing comments from the public and establishing the final report for the program. Upon Council adoption of the Final Report, the Report will be sent to the County Assessor's Office for charges to be made to properties that had abatement work performed this past year by the contractor(s) retained by the Santa Clara County Department of Agriculture and Resource Management. She indicated that 267 parcels were included in the 2006-Hazardous Vegetation Program. Of this number, 55 parcels had their parcels abated by the County's weed abatement contractor. She indicated that letters were mailed out to the 55 property owners advising them of the hearing on assessment this evening. She stated that staff received 8 calls from property owners who had questions about their assessments. These property owners worked with the Weed Abatement Program Coordinator; resulting in two properties being taken off the list: APNs 817-12-003 and 817-13-026. APN 728-02-003 has had its assessment charges reduced from \$284.33 to \$142.16. She informed the Council that Moe Kumre, Weed Abatement Program Coordinator, was in attendance to answer any questions the Council may have.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

**Action:** *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Adopted** Resolution No. 6037, Ordering the Final Report on the 2006 Hazardous Vegetation Program be Transmitted to the County Assessor's Office and that Liens be Posted Against the Properties on the Report, amending the exhibit per staff recommendation.*

**17. PUBLIC HEARING AND ADOPTION OF RESOLUTIONS CONFIRMING FISCAL YEAR 2006-2007 ANNUAL ASSESSMENT FOR THE FOX HOLLOW-MURPHY SPRINGS ASSESSMENT DISTRICT – Resolution Nos. 6038 & 6039**

Mayor Kennedy announced that he would be recusing himself from participating on this item as he resides within 500 feet of one of the parcels. He excused himself from the Council Chambers.

Deputy Director of Public Works Struve presented the staff report; indicating that on June 28, 2006, the Council adopted a resolution declaring its intent to levy assessments and set this evening as the date for the public hearing. He informed the Council that there are no proposed changes in assessment rates at this time to any of the sub areas. He indicated that there are four sub areas (Conte Gardens, La Grande, Sandalwood, Jackson Meadows #7) with high fund deficit attributed to the failure of passing a proposed increase in the rate assessment. Staff proposes to reduce maintenance to a minimum for these four sub areas. Staff recommends the City use the revenues available from the assessments raised to pay back the deficit balances. He said that it would be necessary for the Council to adopt two resolutions: 1) approving the Engineers Report; and 2) ordering the levy and the collection of assessments. He stated that staff would conduct weed abatement twice a year; maintaining trees, turf would not be watered, and

that wood chip mulch would be installed throughout the area where turf is to die. He said that the overall plan is to use the available revenue to pay the fund deficit back. When the deficit is eliminated, staff could again provide additional services; reducing the scope of work. He indicated the residents are aware of the deficit. The residents are not happy about the reduction in services, but are tolerant of the situation.

Mayor Pro Tempore Grzan opened the public hearing. No comments being offered, the public hearing was closed.

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Adopted** Resolution Nos. 6038 & 6039; Confirming the Fiscal Year 2006-2007 Annual Assessment for the Fox Hollow/Murphy Springs Assessment District.*

Mayor Kennedy resumed his seat on the Dais.

**18.    FORMATION OF PROPERTY-BASED IMPROVEMENT DISTRICT (PBID) – Resolution No. 6040**

Director of Business Assistance and Housing Services Toy addressed the process to be undertaken this evening on the formation of a Property Based Improvement District (PBID). He indicated that in June 2006, the City/Agency adopted a resolution of intent to form a Morgan Hill Downtown PBID and authorized the Executive Director/City Manager to sign the ballots in favor of the assessments. He stated that the Agency has committed \$75,000 in matching funds, if the PBID is formed. The PBID would fund a variety of improvements and activities related to capital improvements, economic development, marketing, pedestrian safety and security, public space and public policy advocacy. He stated that in accordance with the provisions of Government Code 53753 and Article 218 of the California Constitution, the City gave notice, by mail, to the owners of record for each identified parcel in the proposed PBID on June 9, 2006, and that each notice included an assessment ballot and a summary of the procedures for the completion of the return and the tabulation of the ballots.

Mayor Kennedy opened the public hearing.

Dan Ehrler, representing the Chamber of Commerce, stated that if the votes are positive and the PBID is formed, the Chamber of Commerce is ready and is looking forward to working with the Downtown Association in assisting in appropriate ways to help make the PBID successful and fulfill the goals and objectives of the PBID. He felt the continuation of the partnership with the Downtown Association is important to the Chamber and that they will do whatever it can to support their efforts with this process.

Mayor Kennedy addressed the procedures to be followed this evening, including the receipt of public testimony from all interested persons for or against the establishment of the district.

Gary Walton, representing the Downtown Association and speaking as a downtown property owner, informed the Council that the Association has worked hard in terms of working with property owners in order to establish this district. It is the Downtown Association's hope the results are in the affirmative to form the district. He thanked the City staff for all its assistance through the process. He indicated that

there were a number of property owners and board members in attendance this evening in support of the PBID; including Joe Hammand, Leslie Miles, Brad Jones, Eric Wallace, Jim Krause and Rocke Garcia.

Rock Garcia indicated that he was not supportive of the PBID the last time this item was before the Council, but that there has been clarification such that it would be beneficial to the downtown. He stated his support of the formation of the PBID, indicating that he is the largest private contributor to the PBID.

Benny Kwong stated his support of the PBID.

No further comments were offered and no other assessment ballots were submitted.

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Authorized** the City Clerk's Office to Open and Count the Ballots.*

The City Council considered Items 19, 20 and 21 at this time.

## ***Redevelopment Agency Action***

### **OTHER BUSINESS**

#### **19.    COMMERCIAL REHABILITATION LOAN PROGRAM FOR DOWNTOWN SMALL BUSINESSES**

Director of Business Assistance and Housing Services Toy informed the Agency Board that the Community & Economic Development Committee recommends adoption of a loan program for small businesses located in the downtown; authorizing the Executive Director to do everything necessary and appropriate to implement and develop such a program. He identified the program goals of eliminating blight, foster economic revitalization of the downtown, provide funding to rehabilitate existing commercial buildings, fill financing gaps, and provide desired service amenities to the community. He addressed the loan process, qualifications for the loan program, and loan terms.

Chairman Kennedy opened the floor to public comment.

Leslie Miles stated that this is an excellent opportunity for existing small downtown businesses to be able to expand and improve their current businesses. It is also an opportunity to retain successful businesses that have had a hard time getting additional funding/financing for interior improvements. She said the grant program with the façade improvements has been successful in the downtown. She felt that individuals would take advantage of the program, and will give the smaller downtown businesses the assistance to develop their interior space in the same manner the exteriors have been developed. She recommended the program become a revolving loan fund so that there is a fund established for this program. Perhaps interest earned can go into a fund that can be continually used over time to retain this type of program and becomes self sustaining.

No further comments were offered.

Agency Members Sellers indicated that this program was reviewed by the Community & Economic Development Committee. He said the Committee wanted to make sure the City was not putting off wholesale changes in the downtown by creating business opportunities in areas where larger changes would be more appropriate. Upon reviewing the program, items were included that would give the City the opportunity to sustain and expand existing businesses by giving businesses the opportunity to succeed; helping to expedite wholesale changes if businesses are located in an area where the City might want to see larger changes.

**Action:**        *Agency Member Sellers made a motion, seconded by Agency Member Tate, to **Authorize** the Executive Director to do Everything Necessary and Appropriate to Develop and Implement a Commercial Rehabilitation Program for Downtown Businesses Based on the Approved Program Parameters, Including Execution of Loan Documents and Minor Modification of the Program Parameters; Subject to Review and Approval by Agency Counsel.*

Agency Member Carr said that as a member of the Committee, he was concerned that the Agency would be investing in buildings, and perpetuating the retention of buildings that should be redeveloped. Instead, the City may be band aiding buildings and assisting property owners with a 10-year loan at zero percent interest. He stated that he still has concerns about this, but as explained by staff, there is a lot of flexibility in the loan committee and in the recommendations to the Executive Director on the terms/length of the loans. He suggested the loan committee look at the true life of the building the City is putting money into and whether the City should be looking at a shorter life span; finding ways to encourage buildings to be redeveloped sooner rather than extending the life of properties that should not be extended.

Agency Member Tate inquired as to the budgeting for this program. He noted there is money set aside for this program at this time, on a first come first served basis. He inquired as to what would happen to the repayments.

Mr. Toy stated that staff will budget annually for this program. He clarified that interest would return to the Agency and that staff would rebudget the fund. He indicated that this would be a revolving loan fund in the sense that it is rebudgeted every year, if it is the Agency Board's direction. This would not be similar to the CDBG revolving loan where monies go back into the loan fund and continues to be recycled. This program has been set up so that it is reauthorized each year as part of the budget, similar to the facade program. The program would be on a first come, first served basis. He stated that \$150,000 has been budgeted for this program. With the plan amendment, the Agency can budget more money into the program.

**Vote:**        *The motion carried unanimously (5-0).*

## ***City Council Action***

### **OTHER BUSINESS:**

#### **20. CONSIDERATION OF CONSTRUCTION BID FOR DEPOT STREET RECONSTRUCTION PROJECT**

Deputy Director of Public Works Bjarke presented the staff report on the Depot Street Reconstruction Bid. He informed the Council that it has been presented with a supplemental staff report where staff is recommending award of the bid and making the necessary budget adjustments to ensure proper funding for the project. He addressed the improvements completed/proposed for Depot Street; indicating that all improvements amount to a \$5 million investment for Depot Street. He indicated the City held its bid opening for this project on July 11, 2006. He informed the Council that the bulk of the street improvement project is funded with a \$2.6 million MTC grant. When the project was put together, staff did not see a need for extensive underground storm drain work. However, when staff began the design, it became apparent that there was a need for storm drain work for the project in order to allow proper drainage. He indicated that the net result of the bids for the storm drain was a \$660,000 hit to the project. He said that there are sufficient storm drain funds to pay for this portion of the project. The items contributing to the shortfalls were: RDA funds previously taken away, storm drain work, overhead costs beyond what was anticipated, and the results from the construction bids. He informed the Agency Board that staff reviewed the bids and found that the low bidder was at 11% above the engineer's estimate.

Mr. Bjarke identified Agency Board options: 1) reject bids this evening, 2) perform value engineering for the project, or 3) rebid the project at a later date. Without hurting the project and compromising the aesthetics of what the City wants to accomplish, staff could not find any value engineering items that would make up the deficit. He said that should the Agency Board reject the bids and rebid the project at a later date, construction costs would rise. Staff does not believe the City would gain by rebidding the project. Further, staff does not want to be under construction during the winter months.

Mr. Bjarke indicated that staff made commitments to downtown businesses that the project would be completed before the end of the calendar year. He informed the Agency Board that the City was rejected for additional grant funding to supplement the project. Staff proposes to reduce the contingency for the street portion of the work from 10% to 7%. It is staff's recommendation the Agency Board supplement the \$660,000 storm drain work with non obligated storm drain funds. Further, that the Community & Economic Development Committee supports transferring money from the Redevelopment Agency Economic Development budget to this project in the amount of \$470,000; \$380,000 of this amount would come from the Granada Theatre project, leaving a balance of \$620,000 in that account; and \$90,000 from the downtown entry feature to make up the balance. Staff recommends the Agency Board make budget adjustments to fund this project, award the bid for the project, and to carry over the funds for this project from last year's budget to this fiscal year's budget. He clarified that staff is recommending the project be broken into two components: 1) underground storm drain work to remain at 10% contingency; and 2) the street work contingency is proposed to be reduced from 10% to 7%.

Mayor Kennedy opened the floor to public comment.

Dan Ehrler said that when the Chamber of Commerce first heard about the project, it had a concern about its timing relative to the Taste of Morgan Hill event. In his initial contact with city staff, he found staff to be responsive in engaging the Chamber and bringing them in on the discussions about the project. The Chamber and staff were able to discuss this concern and that the Chamber was assured that access for participants to the Taste of Morgan Hill will have access onto Monterey Road via Main Street. At the meeting he attended Friday, he did not realize that a portion of the \$1 million earmarked for the Granada Theater would be used for this project. He informed the Council that the Chamber of Commerce is supportive of the Granada Theater. He recommended the Agency Board keep the Granada Theater funds in tack for use in the future.

No further comments were offered.

Chairman Kennedy recommended that the contingency funds go back into the economic development project where they were removed, should they not be used.

Council Member Sellers indicated that this is a situation where there are no attractive options. He acknowledged the Agency Board does not want to spend these extra funds. However, there is too much at stake in terms of timing/financial commitments associated with the MTC grants. He felt that it was incumbent upon the City to stay with the original schedule. He said that all projects the Agency is taking funds away from will continue to be priorities for the Community & Economic Development Committee. The Committee considered that should the Redevelopment Plan be extended this fall, this would coincide with the timing for these other opportunities. While the Agency has funds allocated for the Granada acquisition, it will be a long term prospect; it believes that purchase would more than likely take place next year. The Committee wanted to maintain the financial commitment, but realized it would be wise to use these funds in the short term; transferring the funds to this critical project in order to make sure the project is completed.

**Action(s):** *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (5-0) **Approved** staff recommended actions as listed in the supplemental staff report as follows: 1) **Rebudgeted** to FY 06-07 All Remaining Unexpended Funds for CIP Project No. 539005; 2) **Appropriated** \$660,000 from Current Year Unappropriated Storm Drain Non-AB 1600 Fund Balance; 3) **Transferred** \$470,000 of Current Year RDA Economic Development (317-8010) Appropriations into CIP Project No. 539005, Depot Street Reconstruction; 4) **Awarded** Contract to Wattis Construction Company for the Construction of the Depot Street Reconstruction Project, Including the Deduction of Revocable Bid Item for a Metal Arch, in the Amount of \$2,868,356; and 5) **Authorized** Expenditure of Construction Contingency funds not to Exceed \$215,300.*

**21. REPORT ON POSSIBLE BALLOT MEASURE TO AMEND THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM ORDINANCE (MEASURE C) FOR DOWNTOWN MIXED USE PROJECTS - Resolution Nos. 6041, 6042, 6043**

Director of Community Development Molloy Previsich stated that at the end of 2005, the Council charged the Community & Economic Development Committee to report back on whether a ballot measure to amend Measure C to facilitate housing and mixed use construction in the downtown would be feasible. She indicated that a workshop was held in January 2006 with stakeholders in attendance. The Committee discussed a proposed ballot measure; reporting back to the Council in March 2006 that it would be feasible to include a ballot measure in June. The Council directed the Committee to continue discussing this matter; indicating that the Committee discussed this matter on a monthly basis. Another workshop was held on June 12 that was well attended by stakeholders. Last week the Committee met and decided to forward a recommendation that a measure be placed on the November 7, 2006 ballot. She stated that the main purpose of the measure would be to allow up to 100 additional housing units to be located in the downtown and to remove the timing of construction limitations for projects awarded allotments in March 2006; consisting of over 350 units. The measure would allow flexibility so that

these projects could be started and completed without regards to fiscal year limitations. She informed the Council that the Committee forwards the following ballot measure for Council consideration:

Do the citizens of the City of Morgan Hill ordain that Ordinance 1665, Residential Development Control System be amended to allow the City Council, by resolution, to establish a process for allocating up to 100 additional residential unit allotment in the downtown core for small projects that meet minimum RDCS scores and for adjusting the timing of existing allocations within the downtown RDCS boundary, providing the projects are consistent with the Downtown Plan.

Ms. Molloy Previsich informed the Council that staff mailed notices of this evening's meeting and the proposed ballot measure language to the stakeholders. Subsequently, the City Attorney and others have raised questions about the language. She informed the Council that staff had to draft the ordinance that would go along with the ballot measure question. In reviewing the RDCS ordinance, it necessitated a supplemental staff report with another version of a possible ballot measure question. She indicated that there are two differences in the supplemental ballot measure language that has been forwarded to the Council by the Committee: 1) it defines small projects as being up to 15 units; and 2) allows partially allocated projects to draw from the 100 units. She stated that staff recommends the Council: 1) consider the recommendation of the Committee, 2) open the floor to public comment, 3) decide whether to call for an election, and 4) approval of the contents of the ballot measure.

Mayor Pro Tempore Grzan noted the supplemental staff report states that the Committee, many members of the downtown, and the development community believe that allowing additional residential units and allowing flexibility in the timing of construction of mixed use could be beneficial for downtown businesses/residents and the entire community. He inquired what benefits would be derived should the Council allow the development of the additional 100 units.

Ms. Molloy Previsich responded that she was not sure if this was a quantitative benefit, but a qualitative benefit in terms of achieving the goals of the Downtown Plan for the development of additional housing and mixed use projects in and near the downtown core.

Mayor Pro Tempore Grzan noted the City is proceeding to do things differently than what was originally proposed for the downtown. Therefore, he felt there may be some perceived benefits, whether it is financial or otherwise. He would like to be able to state that there are some economic benefits to proceeding with a ballot measure. He noted a concern about the downtown and its viability to sustain businesses. Should an amendment to Measure C be successful and the downtown does not gain economically from the measure, he did not believe the Council would fulfill a mission it is trying to achieve. If the City cannot measure the benefit, he would have a concern.

Ms. Molloy Previsich stated that to the extent development occurs sooner in the downtown, additional property taxes would be generated. There would also be additional sales tax dollars from downtown residents and businesses. She noted that downtown businesses generate approximately \$100,000 per year in sales tax. She said that it would be a reasonable expectation that this amount would grow with additional residents patronizing the downtown.

Mayor Pro Tempore Grzan indicated the Council is seeking to make the downtown more lively. However, should the additional downtown residents not make it more lively and the City added more

units, then the Council has not achieved one of its goals. He stated that there is logic to suggest there will be additional sales tax dollars associated with additional residential units in the downtown. However, he needs to know how much the sales tax would increase, and whether it would be enough to sustain and create a viable downtown. He stated that he would like to make a risk free assessment, and to make sure the City meets its intended goals.

City Manager Tewes stated that an extensive fiscal analysis of this particular proposal before the Council was not conducted. However, the impact of building 100 residential units in the downtown is part of the Council's goals. The question before the Council is whether these units should be constructed sooner rather than later. He felt that intuitively, it would seem that the vitality of the downtown would be enhanced by allowing the units to be constructed sooner rather than later.

Council Member Tate indicated that the Council received new wording for the ballot measure this evening and that he was trying to understand it. In the first draft of the measure, it states the Council will adopt a process to allow more units to develop in the downtown. The second draft of the measure states the City would allow 100 additional units in the downtown, but does not advise how this is to be accomplished.

Ms. Molloy Previsich clarified that the first version of the ballot measure question is referenced by resolution. She stated the City Attorney questioned this particular mechanism. It was decided to include the process in the implementing ordinance. She noted that the implementing ordinance states that the Council will adopt procedures.

Council Member Tate expressed concern that the voters will not understand how the additional units would be accomplished.

City Attorney Kern stated that the Council can implement the law adopted by the voters. She said that she has concerns with an initiative ordinance where the voters would be instructing the Council to do something by resolution. Staff modified the ballot measure to have the voters adopt an ordinance that amends the general plan and the municipal code to allow 100 additional units for small projects up to 15 units and partially allocated projects; providing the projects are consistent with the Downtown Plan and meet the minimum RDSC scores. She indicated that the ordinance contains the language that authorizes the Council and Planning Commission the ability to adopt procedures to implement the 100 units. She clarified that a resolution is not the legal mechanism to implement an initiative. It was her belief that the ability for the Council to come up with processes to implement this goal still stands as contained in the existing ordinance.

Council Member Tate indicated that the City defined a small project, but did not define the downtown core.

Ms. Molloy Previsich said that the definition of the downtown core was contained in the first version of the ballot measure. She informed the Council that ballot measures are limited to 75 words. Therefore, the definition was included in the ordinance where it is clearly defined.

Council Member Sellers noted that language was added that defines small projects of up to 15 units. He stated that the Committee discussed this definition and determined the appropriate number should be

higher. He inquired whether there was a legal reason a small project had to be defined as 15 units or whether it was within the parameters of the City Council to determine what the number should be.

Ms. Molloy Previsich said that the current ordinance defines a small project as being up to 15 units. She clarified that the current point evaluation procedures would not change with the proposed ordinance. She stated that the ordinance allows Council discretion when it establishes the procedures to decide whether a competition is needed or whether allotments would be distributed on a first come first served basis. The ballot measure states that projects need to be submitted, scored and receive a minimum score before proceeding. She indicated that pages 17 and 18 of the proposed ordinance contains the current categories and the number of points per category. Further, there is another part of the RDCS that gets into more detail about the point distribution. However, the point distribution is not a part of the proposed voter initiative.

City Attorney Kern clarified that the point system listed on pages 17 and 18 of the proposed ordinance is a part of the existing Measure C scoring criteria. The scoring criteria was codified in the ordinance and is voter approved. Should the Council wish to include a change in points on the ballot, this would be the opportunity to do so. The second section is the evaluation/scoring process that was adopted by Council ordinance. She indicated that this section could be modified at any time without having to go to the voters, should the Council so desire. She stated that the Council could work with the Planning Commission and adjust points under the various categories.

City Manager Tewes stated that it has been the Council's practice to ask a group to evaluate the previous competition after each competition and make recommendations regarding an evaluative criterion. He noted the Council developed special evaluative criteria for downtown projects that received allocations in the last competition.

Mayor Kennedy referred to page 2 of the supplemental staff report; noting that it contains the ordinance language. He inquired whether this was the ballot language before the Council for discussion/consideration.

City Attorney Kern clarified that the voter pamphlet will include the ballot measure, not the ordinance text amendments being proposed. The ballot will refer voters to the City Clerk for a copy of the entire ordinance. She stated that the voter pamphlet would include arguments for and against the measure, the impartial analysis prepared by the City Attorney, and rebuttals for/against.

Council Member Sellers confirmed there has been an extensive public hearing of the process, noting that the process has been taking place for approximately 6 months with a couple of large workshops being held. He thanked staff and the downtown property owners/businesses for all the time and energy put forth toward this effort.

Mayor Pro Tempore Grzan inquired why the 100 residential units identified was selected.

Ms. Molloy Previsich clarified that the proposed ballot measure of 100 units complies with the California Environmental Quality Act (CEQA) as it falls within the envelop of development already studied. Should this number be increased, additional CEQA work would be required. She indicated that the current RDCS ordinance mandates the Council set aside a certain number of allotments for the downtown through Fiscal Year 2009-2010. After this time, the ordinance states the Council may create a

special downtown set aside, but does not have to. She stated that the number of units to be allotted to the downtown would be decided upon by a future Council action. She said that should the voters approve the ballot measure/ordinance, the Council will be able to move forward 100 units in the downtown immediately and move progress in the downtown by several years.

Mayor Kennedy opened the floor to public commit.

Rocke Garcia indicated that he is the property owner of the Sunsweet site and a 28-year Morgan Hill resident. For 80 years, the downtown supported Morgan Hill, and felt it was time the rest of Morgan Hill supported the downtown. He indicated that he has a project that has been approved for 57-units and is working diligently on this with his architect. Should the 100 units be built at an average cost of \$400,000 each unit, this would result in \$40 million dollars. He indicated that his property's tax value is at \$600,000 and would increase to over \$30 million. He felt that this would be significant dollars coming back to the City; not to mention the sales tax dollars to be generated from these new residents as they will spend their money in the downtown district. He felt the objective of revitalizing the downtown is to get residents to spend their money in Morgan Hill. He stated that he wrote a letter, in conjunction with the Downtown Association, to the Council regarding the extension of the RDA. He stated that the extension of the RDA is important to the downtown. The letter requests funds to provide offsite improvements in order to improve the downtown, should the extension be approved. He felt the downtown needs lighting so that people can feel safe when they walk in the downtown. He supports the 100 units as it would add a competition to the downtown; noting that it is a different market place from other areas being built. He felt the City needs a mixture of housing types and that the extra 100 units would provide this mixture. He requested the Council approve placing the measure on the ballot and allowing citizens to vote on the measure.

Michele Beasley, representing the Greenbelt Alliance, stated that Greenbelt Alliance is supportive of compact mixed use development in downtowns, and along transit corridors. She felt Morgan Hill's downtown has the potential to be the heart and soul of the community. She did not believe that constantly building single family homes on the fringes of town does anything to support the downtown. She said that a possible ballot measure that would add 100 units to the downtown would have many benefits and that a variety of housing types would accommodate a diverse workforce. Further, additional residents in the downtown would support local businesses. She said the only way to achieve a vibrant downtown is to have more people living in the downtown. Allowing the 100 units would place more individuals within walking distance of Caltrain and would help reduce traffic/air pollution, and would help protect Morgan Hill's greenbelt by reducing urban sprawl. A way to combat more heat waves in the future is to direct new development into existing developed areas instead of paving over farmlands, hillsides and open areas.

Dan Ehrler informed the Council that the Morgan Hill Chamber of Commerce Board of Directors voted unanimously to support the placement of the measure on the November 7, 2006 election. It is the Board's belief that passage of the ballot measure would be beneficial to the downtown and Morgan Hill, in general.

Brad Jones, Morgan Hill resident and downtown business owner, said that a growth control ordinance has been good for the community as a whole, but bad for the downtown. He requested the Council place this ballot measure before the voters to determine whether they want to have a carefully planned

community and a vibrant downtown. He felt that mixed use development would add to the property based improvement district monies coming in, if the formation of this district passes this evening.

Gary Walton, representing the Downtown Association, addressed the economic benefits associated with the passage of the proposed ballot measure that would be attributed to increase density in the downtown. He felt it would make sense to place people in the downtown to enjoy the investment the community has made in the downtown. He said that the Downtown Association wants to make sure the 100 units are allocated in a fair way; recognizing the projects already approved in the core as well as being fair to the projects outside the core. The Downtown Association believes the ballot measure would allow the opportunity to look at the big picture. He felt this would be a good opportunity to get meaningful citizen involvement in the decisions about growth and development. He stated that the Downtown Association Board took a unanimous vote in support of the ballot initiative.

Ralph Lyle stated that he was not representing anyone or any organization other than himself. He said that he took a quick glance at the new ballot measure version. He felt the City Attorney and the Director of Community Development should be complimented as it is a great improvement over the prior version. He addressed the items that greatly improved the measure. He stated the City has identified the number 15 as the definition of small projects for almost 30 years. He noted that Measure C included language regarding possible ways of assisting downtown development. He stated that specific paragraphs were included as can be found on page 12. He said that keeping 15 units as the definition of small projects would be consistent with prior actions. Should this number be changed, inconsistencies would result because the particular number contained in the paragraph is not being proposed to be changed. He clarified that it was a broad based group that determined the number 15 would be specific to the downtown. He felt it important to include ongoing projects as an equity issue, and complete downtown projects that would have a great benefit. With respect to past history, he stated the City has always given priority to ongoing projects. With respect to non downtown units, it would be an equity issue. He felt the Council would like to have a set aside for other new projects in the downtown. By including 36 units with the 100 units, the City would have room for new downtown projects and non downtown projects. He referred to page 12, two paragraphs under Section E. He felt the two paragraphs were in conflict. There are other places in the document that state: "...exclusive of the special 100-units, the following is true." He felt that this language is needed in 2 places in section E. He reiterated his preference to this version of the ballot measure over the previous version(s).

Charles Weston indicated that he does not have a copy of the most current draft ballot measure and does not believe that everyone has had the opportunity to review and comment. He did not believe the current Measure C scoring competition works. He felt the downtown competition is cumbersome and does not fit. He indicated that the economics of the downtown are different. He noted the Council approved \$500,000 to a project that realized it could not complete its intended design due to many difficulties in developing in the downtown. He felt that Measure C adds a tremendous amount of money, complexity and stalling tactics; even though he believes that Measure C, in the most part, has been a benefit to the community. However, it is a detriment to accomplishing the downtown goals. He stated his support of the 100 units. He felt the number 15 was a haphazard/farcical number that has been pulled out of a hat. He did not believe there was a history associated with the 15 unit definition. He felt the 15 units was an attempt to slow down the process and make it competitive, with what he perceives as a threat from development at Cochrane and Highway 101. He stated that the downtown needs assistance to eliminate the hindrances in its ability to compete.

Dan Craig stated that he is speaking as a citizen of Morgan Hill and in support of placing the measure on the November 7, 2006 ballot, as it is a start. He indicated that the more units built in the downtown, the better chance he has of being able to afford to buy or rent in the downtown. He felt there were others in his situation as well as young singles and young couples who would like to live in the downtown and do not want to maintain yards and have big homes. It was his belief he was speaking on behalf of a large market group. He supports infill development and with what the Greenbelt Alliance representative addressed.

Leslie Miles indicated that the Measure C competition is cumbersome for the downtown. She stated that she was on the RDCS subcommittee who tried to work through some of the issues. She felt there is an opportunity to revisit Measure C, look at some of the issues that occurred last year, and discuss how to resolve these issues. She said the ballot measure is the only way to move ahead with getting downtown units in place. As a property owner on Depot Street, she indicated that they have been undergoing the construction process. She felt the infrastructure is a place to start. Despite the fact that there are 360 units approved in the downtown, there are approximately 80 units in what can be considered the core. The projects that have been approved in the downtown are: her 12-unit project, Mr. Garcia's project, and Manou Mobedshahi's potential project of 7-8 units. She did not believe the competition was benefiting the core area of the downtown that is key to redevelopment, retail development, and increased sales tax dollars/property tax dollars. She recommended the City try to develop all of the infrastructure at the same time so that businesses will not be impacted, and that businesses/individuals can move in. It was her hope the Council will move forward with a ballot measure so that voters can understand how important it is to reduce development in green areas and focus on a viable transit oriented downtown.

No further comments were offered.

Council Member Sellers pointed out that these are all mixed use projects; therefore, retail would be added to the downtown as you add residential. He said that the bottom line with all of downtown development is to have an integrated, high density, diverse community. He said that a goal since 1989 has been to develop a sense of community. He felt the ballot measure would further this goal by developing mixed use projects, not just housing units. He stated that it is important to recognize the proposed ballot measure does not increase the population cap. He indicated that there was some talk about raising the population cap and that it was determined that this did not make sense. If the population cap needs to be raised, it was decided that this should be a separate issue. It was felt important to retain the current population cap in order to go to the citizens to state the City would be placing units in the downtown instead of creating more urban sprawl. He felt that Mr. Walton addressed the economic benefits associated with additional mixed use in the downtown. It was also important to recognize that the ballot measure would assist in creating a sense of community so that individuals can feel safe. This is a modest start, but significant. He stated that the City would have the opportunity to revisit the scoring criteria; noting that the RDCS committee members have tried to come up with a better criterion. He indicated the Committee had an extensive discussion and have concurrence with two items: 1) Recommends 25 units as the definition for small projects, or eliminate the wording altogether. He said the Committee reviewed all projects that might be able to take advantage of this. It was realized that there are several small projects, but that some projects can accommodate 23-25 units. The Committee did not want to preclude a project in the downtown. 2) Regarding partially allocated projects within the downtown core, the Committee recommends the elimination of "and for partially allocated projects within the downtown RDCS boundary." He stated that it is the Committee's recommendation the Council move forward with the ballot measure with these two changes to the ordinance.

**Action:** *Council Member Sellers made a motion, seconded by Council Member Carr, to **Adopt** Resolution No. 6041, Calling and Giving Notice of the Holding of a General Municipal Election to be held on Tuesday, November 7, 2006 for the Submittal to the Voters of a Ballot Measure to Revise Ordinance No. 1665, New Series, to Allow for up to 100 Additional Housing Units, and the Removal of the Timing of Construction Limitations for Downtown Housing and Mixed Use Projects that are Consistent with the Downtown Plan; with the following modifications: 1) Section 2, for small projects of up to ~~15~~ **25** units within the downtown core, and for partially allocated projects within the downtown core, ~~and for partially allocated projects within the downtown RDSC Boundary.~~ And allowing earlier starts....”*

Council Member Tate recommended the elimination of the word “small” as small to him means 15 units or less.

Council Member Sellers concurred with Council Member Tate’s recommendation to delete the word “small.”

City Attorney Kern understood the Council has agreed to delete the word “small.” Therefore, it is being stated that the ordinance would be adopted to amend the general plan and the municipal code to allow 100 additional residential allotments for projects of up to 25 units within the downtown core, and for partially allocated projects within the downtown core; not the RDSC boundary, a different boundary than the downtown core.

Director of Community Development Molloy Previsich informed the Council that there are no partially allocated projects within the downtown core. She stated that the partially allocated projects within the downtown RDSC boundary is the project referenced by Council Member Sellers located at Butterfield and Main Avenue. She noted this project needs 36 additional allotments to be completed. She inquired whether it was the intent of the Measure to focus on the downtown core and allow flexibility in the timing of projects allocated. Should the Council wish to facilitate the 36 units at Main and Butterfield in order to complete the project, the clause needs to be retained. If not, it can be removed.

Council Member Sellers clarified that he would stand by his original motion to stipulate 25 units within the downtown core, eliminating the wording up to the semi colon.

**Action:** *Council Members Sellers/Carr clarified the motion to stipulate the ballot measure is to read as follows: “Shall an ordinance be adopted to amend the Morgan Hill General Plan and the Municipal Code Residential Development Control System to allow 100 additional residential allotments for projects of up to 25-units within the downtown core; and allowing earlier starts and completions for downtown projects allotted in March 2006; provided that all projects are consistent with the Downtown Plan and meet minimum RDSC scores.” Further, the language in the ordinance is to be amended to be consistent with the proposed ballot measure.*

Mayor Kennedy noted there is a potential for 36 more units for the Ahlin project. He inquired as to the South County Housing project located on Diana Avenue.

Ms. Molloy Previsich indicated that the South County Housing project is fully allocated, and that this ballot measure would allow flexible timing of construction for all downtown RDCS boundary projects.

Council Member Tate stated his support of a measure being placed on the ballot. However, he wants to give the ballot measure the best chance for passing. He expressed concern about not being specific in how the Council would grant the additional allocations. He felt that it leaves it up to a vague process to be determined at a later date. It was his belief that Measure C works. The City has set asides in order to ensure that like projects are competing with like projects. He agreed that with the last downtown competition, the Council did not give added value to the core area and that the Council should have done so as part of the criteria. He noted that Council Member Sellers and Ms. Miles talked about the fact that the Council has learned a lot about the criteria and that it can be modified to be better. He felt strongly that the Council should commit to a competition for the additional 100 units. He did not believe it should be left up to the Council as it would politicize the process. He acknowledged the City has a process in place that does not work perfectly, but that the Council is getting it to work. There will be future downtown Measure C competitions following the allocation of the 100 units. He would like to take the direction of staying as close to Measure C as possible; having a competition while maintaining the population cap. The City would not be exempting units; only moving the 100 units forward as well as some of the units previously allocated.

Council Member Carr indicated that the ordinance stipulates the Council may establish procedures for scoring and awarding the 100 allotments. He noted the Council has time between now and the election date to come up with the process. The Council can define clearly what the process may be before citizens vote on the Measure. He said that it was his intent to find ways to facilitate new projects within the downtown core; moving them up quicker in order to accomplish the goals of the Downtown Plan. He felt that talking about the goals of the Downtown Plan are important; thus, the reason for the wording being specific in the measure as being consistent with the Downtown Plan. He noted that all segments of the community came together to draft the Downtown Plan. There is also the notion of meeting a minimum RDCS score. He felt there has to be some type of scoring mechanism in place and that a minimum score is needed in order to attain allotments. However, the Council needs to define how the scores come about through the process discussed. He stated that it is not possible for one project to build all 100 units. The number 25 came about by talking to property owners/developers at a meeting about the realities of what can take place at some of the opportunity sites. He noted that the motion states “up to 25 units.” It could be the Council determines that 25 units is high and that it could be a lesser number. It is his hope the Council supports moving forward with a ballot measure. He acknowledged there are other details that need to be worked out and recommended the Council commit to getting this work done before November; prior to citizens casting their votes on the measure.

Council Member Grzan stated that he would support a ballot measure. However, he is looking at the larger picture. He stated that the economic/vitality to be gained from the 100 units is important. He was not sure whether the 100 units were sufficient to get the City to where it wants to be. He would like to look at a larger study in order to take the City to where it wants to be. He said the Council needs to continue to evaluate what the downtown will need in order to fit the picture of a vital downtown. He would also like the Council to consider the scoring process. He was not sure whether the scoring criteria needs to be evaluated and looked at differently for the core/downtown. He stated that the City does not have sufficient water to supply should another situation arise. He recommended the City look at sustaining development in order to ensure there are sufficient resources for the 100+units. He

encouraged the City to evaluate the use of plants and plant material to move the City to a congruent landscape with the local surroundings; using draught tolerant/native California plants.

Mayor Kennedy indicated that he has seen how other cities plan for their downtown. He felt that the Council needs to increase the density in the downtown so that it can be viable; the sooner the better and before losing more downtown businesses. He stated that he would be supporting the motion.

**Vote:**            *The motion carried unanimously (5-0).*

**Action:**        *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (5-0) **Adopt** Resolution No. 6042, Setting Priorities for Filing Written Arguments Regarding a City Measure and Directing the City Attorney to Prepare an Impartial Analysis.*

**Action:**        *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (5-0) **Adopt** Resolution No. 6043, Providing for the Filing of Rebuttal Arguments for City Measures Submitted at Municipal Elections.*

**18.    FORMATION OF PROPERTY-BASED IMPROVEMENT DISTRICT (PBID) –**  
***Resolution No. 6040 (continued)***

City Clerk Torrez informed the Council that pursuant to the procedures for the completion, return, and tabulation of the assessment ballots which have been adopted by this Council, she has tabulated the ballots, submitted and not withdrawn in support of or in opposition to the proposed assessment. A total of 65 ballots were properly returned to the City Clerk. With ballots weighted according to the proportional financial obligation of each affected property, she has determined that ballots representing \$44,268.05 in financial obligation were returned in support of the proposed assessment. Ballots representing \$11,730.99 in financial obligation were returned in opposition to the proposed assessment. She indicated that 79% of the ballots, as weighted, were cast in support of the proposed assessment. Therefore, there is not a majority protest against the proposed assessment.

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council unanimously (5-0) **Declared** the Results of the Ballot Process and Closed the Public Hearing.*

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council unanimously (5-0) **Approved** Resolution No. 6040, Authorizing the Formation of the PBID, the Levy, and Collection of Assessments for a Period of Five Years, Commencing Fiscal Year 2006-2007.*

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council unanimously (5-0) **Approved** the Final Engineer's Report (Previously Submitted).*

City Clerk Torrez informed the Council that one of the ballot votes submitted contained a letter and she read the letter from Barbara and Jim Ahlin, owners of the Morgan Hill Flea Market, into the record; indicating that they did not believe the property should have been included in the assessment district.

## ***City Council Action***

### **PUBLIC HEARINGS:**

#### **23. SPECIAL EVENT USERS FEES AND PARK/FIELD RENTALS – Resolution No. 6044**

Director of Recreation and Community Services Rymer presented the staff report, indicating that the Parks & Recreation Commission included the review of special event user fees and park/field rentals as part of their Fiscal Year 2005-06 workplan. The Commission evaluated whether to recommend Council establishment of user fees for special events. He indicated that the Commission recommends a full cost recovery strategy for special events and a partial cost recovery for the City's sports fields and picnic areas. He addressed the proposed special event user fee and park fee rental charges. He brought to the Council's attention an error contained within Exhibit A, the lower right hand corner. The exhibit did not include the correct proposed fees for the picnic rental areas (should read \$37 and \$74 and not the listed \$28 and \$56 amount).

Mayor Pro Tempore Grzan noted the Council is being requested to approve a method for annually increasing the proposed fees. He inquired why staff did not choose a consumer price index (CPI) as opposed to actual costs.

Mr. Rymer said that it was his understanding that the CPI is the common calculation that is used and applies to increased fees and would remain consistent within this region.

Mayor Pro Tempore Grzan supported annual increases. H recommended the City look at actual costs as opposed to a standard.

City Manager Tewes indicated that the City's fee resolution provides that most of the miscellaneous fees are to be adjusted annually by the CPI. Therefore, this increase is not a new feature. He clarified that it has been the City's practice to review the cost recovery aspects once every five years with a comprehensive study of the entire fee structure. Therefore, instead of waiting every five years to adjust the fees, the ordinance and resolution provides for annual adjustments until such time the City conducts a comprehensive review.

Mayor Kennedy opened the public hearing.

David McPhearson, President of the Silicon Valley Baseball Association, indicated that for the past five years, the Association has had the opportunity to utilize the fields in the City. He indicated that there are approximately 350 youth participating in the program. He said that the issue of costs were addressed approximately 4-5 years ago. At that time, the Association explained that it was putting in a significant amount of money into the fields; including maintenance of the fields. He stated the Association has reviewed the fees as recommended by staff. He acknowledged that there are costs associated with the use of the lights, and felt that the \$1-\$2 per hour charge was a good starting point. Although the Association is putting money into the fields, he acknowledged that City staff has costs associated with administering the Association's use of City facilities. He noted the Association pays fees for the entire year. He requested that a policy be established that would authorize credit for days/hours not used that are beyond the Association's control, should the fees be adopted. He said that should rainouts occur,

practices would be cancelled and that games/activities would be rescheduled. There is approximately \$2,000 in costs associated with the inability to use the facilities that would be passed on to users. He indicated that other cities provide the association credit for rain out and/or field renovation, and requested the same consideration from Morgan Hill.

David Dotty, President of the Spirit of Morgan Hill Girls Softball Association, indicated that the Association has been receiving great deals as far as the use of fields. He stated that he shares the same concerns as raised by Mr. McPhearson regarding receiving credit for none use of the fields/lights, etc. He inquired whether there was an established priority for residents of Morgan Hill to use the facility over non residents; noting that non residents would be paying more for the use of the facilities. He stated that he would hate to see a shift in the usage going to non residents as a result of achieving higher income. He indicated that the Association provides a lot of maintenance to the fields on an annual basis. He inquired whether there were to be changes in the maintenance of the fields as a result of the fee/rental rates to be paid (concern with condition of fields and safety of users).

No further comments being offered, the public hearing was closed.

Mr. Rymer informed the Council that staff has not addressed the inclement weather policy, but that staff can look into such a policy. He referred the Council to page 337 of the agenda packet. From an application process stand point, he stated that the hours are fixed as these are the upfront costs/time associated with permitting the fields. Therefore, staff is recommending cost recovery for expenses be included within the application process. He said that a lot of the expenses are built into staff time already invested. He said that a staff member would need to assist in the management of the lighting system. However, if the lights are not used, there should be no charge. Regarding the resident versus non resident priority, he indicated that staff did not discuss a priority policy.

Municipal Services Assistant Dieter informed the Council that the resident versus non resident concern has not been a problem. It was her belief that local teams have an understanding about each other's schedule. Therefore, everyone has their time in the use of the fields. She indicated that the City occasionally receives an application from an out of town team requesting use of the fields. She indicated that the regular users accommodate the use of the fields when asked and that she has not seen a problem.

Council Member Sellers stated that there is a concern that the City may issue permits to non residents as their application would generate more revenue. However, it sounds as though City staff is able to accommodate all residential needs.

Mr. Rymer said that the proposed fees are intended to cover existing expenses, and that is not proposed to increase maintenance. However, the City would maintain and keep the ball fields safe. He clarified that it is not being proposed to charge for electricity if not being used. He said that rainouts and inclement weather result in additional administrative costs. He stated that staff will review the implementation strategy in terms of what is fair to the users and what makes sense in terms of staff time.

Deputy Director of Public Works Struve said that there is a timer that allows for a window period for the lights to come on. The user can turn the lights on during this window period.

Council Member Sellers indicated that his son played baseball this year and acknowledged the extended rainy season. He noted that the baseball organization adopted a schedule that accounted for rainy days.

He felt it important for the City to account for rainy days/inclement weather. To reduce the administrative costs, he recommended that staff incorporate alternative schedules such that teams have a number of make up days, or look at alternative scheduling such that teams only pay for the days of use without having the need to have administrative costs associated with rescheduling. He felt that this was an issue that needs to be addressed and that there were ways to move forward equitably.

**Action:**        *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Approved** the Proposed Special Event User Fees and Park/Field Rentals.*

**Action:**        *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Adopted** Resolution No. 6044, Establishing Special Event User Fees and Park/Field Rentals.*

**Action:**        *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Directed** Staff to look into the issues raised this evening.*

## ***City Council Action***

### **OTHER BUSINESS:**

#### **24.    CENTENNIAL RECREATION CENTER FITNESS EQUIPMENT PURCHASE – Resolution No. 6046**

Director of Recreation and Community Services Rymer informed the Council that it has two reports before it; one being the original staff report and the second a supplemental staff report. He indicated that the construction and furnishing of the Centennial Recreation Center (CRC) is moving forward with October 28, 2006 as a target celebration date. He informed the Council that staff needs to proceed with the purchase of equipment for the CRC. He addressed the three bid packages put together to address the needs of the CRC and the City-YMCA partnership as follows: bid package A is for the strength machines, free weights and plate loaded equipment; bid package B is for the cardio vascular equipment, and bid package C is for the elliptical and stretch trainers. Staff recommends Council approval of the purchase order for the low bids for bid packages A and B to Cybex International and to Advantage Fitness Products. For bid package C, staff recommends approval of a resolution that awards the purchase order to Star Trec, the second lowest bidder, for the purchase of cardiovascular equipment. He said that the YMCA has had an extensive history with this product line. He informed the Council that John Remy, YMCA representative, was in attendance should the Council have questions.

Mayor Kennedy opened the floor to public comment. No comments were offered.

**Action:**        *On a motion by Council Member Carr and seconded by Mayor Pro Tempore Grzan, the City Council unanimously (5-0) **Approved** the Purchase Order of \$82,979.40 to Cybex International for the Purchase of Centennial Recreation Center Strength Machines, Free Weight, and Plate Loaded Equipment.*

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**Action:**      *On a motion by Council Member Carr and seconded by Mayor Pro Tempore Grzan, the City Council unanimously (5-0) **Approved** the Purchase Order of \$21,580.38 to Advantage Fitness Products for the Purchase of Centennial Recreation Center Elliptical and Stretch Trainer Equipment.*

**Action:**      *On a motion by Council Member Carr and seconded by Mayor Pro Tempore Grzan, the City Council unanimously (5-0) **Adopted** Resolution No. 6046, Awarding a Purchase Order in the amount of \$106,5787.68 for Cardiovascular Equipment at the Centennial Recreation Center.*

## ***City Council Action***

### **PUBLIC HEARINGS:**

**25.      ZONING TEXT AMENDMENT TO CHAPTER 18.47, AFFORDABLE HOUSING BONUSES AND OTHER INCENTIVES AND CHAPTER 18.55, SECONDARY DWELLING UNITS – Ordinance No. 1789, New Series**

Planning Manager Rowe presented the staff report, informing the Council that this is a clean up item related to the Housing Element. Staff recommends the amendment of two chapters in the municipal code. Section 18.47 of the Municipal Code is being proposed to be amended in order to comply with changes in the California Government Code; specifically, repealing language contained in the City's municipal code and adopts Section 65915 of the California Government Code by reference. Doing so would allow the City's municipal code be consistent with the Government Code as it is amended. Section 18.55 to be amended to repeal the conditional use permit requirement for secondary dwellings as well as the section that deals with the requirement that secondary dwelling units must have access from a public street.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

**Action:**      *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Waived** the First and Second Reading of Ordinance No. 1789, New Series.*

**Action:**      *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council **Introduced** Ordinance No. 1789, New Series by Title Only as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING TITLE 18, THE ZONING CODE UNDER CHAPTER 18.47, THE DENSITY BONUS AND INCENTIVES CHAPTER AND CHAPTER 18.55, THE SECONDARY DWELLING UNIT CHAPTER TO COMPLY WITH THE CALIFORNIA GOVERNMENT CODE APPLICATION ZA-06-07 by the following roll call vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.***

## ***City Council Action***

**OTHER BUSINESS:**

**26. MEASURE C BUILDING ALLOTMENT FOR FISCAL YEAR 2009-2010 – *Resolution No. 6045***

Planning Manager Rowe presented the staff report, requesting the Council adopt a resolution approving a total building allotments (248 units) for fiscal year 2009-10; reserving a portion of the total allotment for micro project competition to be held next year, and to award the balance of the building allotments to on-going projects. He indicated that the Planning Commission recommends the Council distribute the remaining 82 of the 248 units as follows: 3 units to be allocated to next year's micro project competition and that the remaining 79 units to be set aside for ongoing projects. Further, that the Council determine that there are 248 units available for fiscal year 2009-10, and that the City uses next year's (2007) Department of Finance estimates to determine the building allotments for fiscal year 2010-11 and how the building allotments would be distributed among the different competition categories.

Council Member Carr noted that it was stated that 8 units would complete the East Main-Thrust project. He inquired whether any of the other projects would get completed with the allocations.

Planning Manager Rowe responded that no other projects would be completed with the allocations. He informed the Council that projects can choose to go through the competition process to secure a greater number beyond 15 units in order to complete their projects. He said that Council policy states that a project can receive up to 15 units in order to complete a project. The policy was adopted by the Council in order to give some assurance that ongoing projects would ultimately be completed. He said that at least through the end of fiscal year 2010, there will be five ongoing projects outside of the downtown. He said that there may be new projects awarded that may not have started construction.

Mayor Kennedy opened the floor to public comment. No comments were offered.

**Action:** *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council unanimously (5-0) **Adopted** Resolution No. 6045, Approving the Total Building Allotment for Fiscal Year 2009-2010; Reserving a Portion of the Total Allotment for a Micro Project Competition and Awarding the Remaining Allotment to On-Going Projects.*

***Redevelopment Agency Action***

**OTHER BUSINESS:**

**27. URBAN HOUSING COMMUNITIES (UHC) SENIOR HOUSING PROJECT**

Director of Business Assistance and Housing Services Toy presented the staff report on a proposed 49-unit affordable senior housing project. He informed the Agency Board that the Community & Economic Development Committee has reviewed the proposal and recommends Agency participation. Staff recommends preliminary Council commitment to acquire 2.8 acres in the amount of \$3.725 million, less deposits. Further, that staff be given the authority to prepare an exclusive right to negotiate agreement

with UHC for 12 months and to negotiate the terms of the Disposition and Development Agreement. He informed the Council that staff will return to the Council on August 23 with agreements for approval.

Chairman Kennedy opened the floor to public comment.

John Bigley, Urban Housing Communities, stated that he is pleased to be in Morgan Hill and pleased to work with staff on the acquisition of the property. He thanked the Agency Board for its time and support on this project.

No further comments were offered.

Agency Member Sellers stated that the Community & Economic Development Committee had the opportunity to hear about this innovative and exciting project, and believe that it would ignite infill development.

**Action:** *On a motion by Agency Member Sellers and seconded by Agency Member Carr, the Agency Board unanimously (5-0): 1) **Authorized** the Executive Director to do Everything Necessary and Appropriate to Purchase and Acquire a 2.8 Acre Site at 98 East Central Avenue from Capogeannis Trust for \$3,725,000, Less Deposits Applied Toward the Purchase Price, Plus Closing and Escrow Costs, for a 49-Unit Senior Housing Project, Including the Assumption of the Purchase Agreement from Urban Housing Communities, Subject to Agency Counsel Review; and 2) to **Negotiate, Prepare, and Execute** an Exclusive Right to Negotiate (ERN) Agreement with Urban Housing Communities, Subject to Agency Counsel Review, to Develop the Site Which will Include the Reimbursement of Their Deposits for the Property Purchase; Subject to Agency Counsel Review; and 3) **Concurred** with Staff Recommended Amendments.*

## ***City Council Action***

### **OTHER BUSINESS:**

**Action:** *It was the consensus of the City Council/Agency Board to consider item 29 at this time.*  
**29. REQUEST BY POPPY JASPER FILM FESTIVAL FOR CITY CO-SPONSORSHIP**

City Manager Tewes informed the Council that the Public Safety & Community Services Committee has been following up on the Council's direction to develop a process and recommendation for funding non profit organizations in the context of special events. He stated that the Poppy Jasper Film Festival organization is requesting financial assistance from the City. He indicated that the Committee is not recommending the Council move forward with the request for financial assistance at this time because the Committee is hopeful of continuing their review and completing their recommendations within the next 30± days. He stated that the Committee is recommending the Council determine whether or not it should sponsor the Poppy Jasper Film Festival that would allow the advertisement in City publication(s), and defer the request for financial assistance to a later date.

Mayor Kennedy opened the floor to public comment.

Kim Bush, Chair of the Poppy Jasper Film Festival, requested Council co-sponsorship in the form of media sponsorship. She indicated that the film festival has gone international this year with most of the submissions coming from outside of California and 5-6 film makers from countries around the world. She said the City has in place a theater that could house an international film festival. She felt that all pieces are in place to make the downtown a vibrant center. She stated that the Film Festival brings individuals to the downtown who spend time in restaurants and utilize local hotels. Therefore, this is a business move for the Film Festival and would ease their burden this year.

No further comments were offered.

Council Member Sellers felt the City needs to be judicious in its review of sponsorships as the Council should not sponsor just any group. As this is a broad community benefit for those participating, and the event would positively promote the City of Morgan Hill throughout the world, he felt it made sense to move forward with sponsorship this evening. He felt the City needs to be careful with the funds it allocates. He appreciated the fact the Committee would be reviewing his concern about avoiding precedents.

**Action:** *On a motion by Council Member Sellers and seconded by Council Member Grzan, the City Council unanimously (5-0): 1) Agreed to **Co-sponsor** the Poppy Jasper Film Festival, Allowing Advertising in the City's Publications (media sponsorship); and 2) **Deferred** the Action on the Request for Financial Assistance Until the Committee has Completed its Review and Recommendation for a Process for Considering Similar Requests.*

## ***City Council and Redevelopment Agency Action***

### **OTHER BUSINESS:**

## **28. DOWNPAYMENT ASSISTANCE PROGRAM**

Director of Business Assistance and Housing Services Toy presented the staff report; identifying the goals, objectives, and key points of the downtown assistance program as prepared by the five interns from the Goldman School of Public Policy at the University of Berkeley. He identified the five interns: Sundar Chari, Christine Fry, Heather Kinlaw, Matt Reed and Laura Yang.

Council/Agency Member Sellers indicated that the Community & Economic Development Committee reviewed the parameters of the program and stated its support. He indicated that the five graduate students did a great job on this program and that they were enthusiastic about their assignment; looking at a lot of issues.

Mayor/Chairman Kennedy opened the floor to public comment. No comments were offered.

**Action:** *On a motion by Council/Agency Member Sellers and seconded by Council/Agency Member Tate, the City Council/Agency Board unanimously (5-0) **Authorized** the City Manager/Executive Director to Develop and Implement the Down Payment Assistance Program for City Employees Per the Program Parameters as Recommended by the Council's Community and Economic Development Committee (C&ED).*

Council Member Carr requested that staff thank the five interns for all the work they put toward this program.

## ***City Council Action***

### **OTHER BUSINESS:**

## **30. VOTING DELEGATE TO THE 2006 LEAGUE OF CALIFORNIA CITIES ANNUAL CONFERENCE**

Council Services & Records Manager Torrez presented the staff report, informing the Council that the California League of California Cities' Annual Conference will take place September 6-9, 2006 in San Diego, California. At the annual conference, League Members vote on conference resolutions that improve the quality, responsiveness and vitality of local government in California. The League's bylaws authorize each City to have a vote on matters affecting municipal or League policies. She informed the Council that the business meeting will be held on Saturday, September 9. She requested the Council appoint a primary and alternate delegate to the 2006 League of California Cities annual conference. She indicated that this year, the League is also authorizing the appointment of a second alternate in order to plan for unforeseen situations.

Council Member Carr indicated a willingness to take on the primary voting delegate responsibility.

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**Action:**      *On a motion by Council Member Sellers and seconded by Mayor Kennedy, the City Council unanimously (5-0): 1) **Appointed** Council Member Carr as the City's Primary Voting Delegate to the League of California Cities' Annual Conference; and 2) **Directed** the City Clerk to Complete the Voting Delegate Form and **Forward** said form to the League of California Cities.*

**21.      REPORT ON POSSIBLE BALLOT MEASURE TO AMEND THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM ORDINANCE (MEASURE C) FOR DOWNTOWN MIXED USE PROJECTS - Continued**

City Manager Tewes indicated that the City Attorney and that the Community Development Director have drafted an ordinance that reflects the Council's actions of this evening and distributed the ordinance to the Council. He noted the Council adopted a resolution setting priorities for the filing of arguments; however, the Council did not designate the Council members who would be authorized to file the arguments. He recommended Council discussion and determination as to who will sign the argument.

Council Member Sellers stated that he would agree to draft/sign the argument. He recommended that all five Council members be authorized to sign the ballot argument. He felt that a committee could be established to move the measure forward, and that there may be a combination of community members-leaders as well as elected members who would sign the argument.

City Manager Tewes informed the Council that any citizen can file for the right to sign an argument. However, the Council can establish priorities for arguments by resolution. He indicated that it has been the Council's practice that when the City sponsors a measure that all Council members are listed as signers of the argument. Therefore, it would be appropriate to list all Council members. He said that one or two council members could cede their signing writes to a citizen. However, the resolution would be reserving the right of council members to have priority in signing the argument.

**Action:**      *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (5-0) **Agreed** to Designate All Council Members as Authors/Signers of the Argument in Favor of the City Ballot Measure.*

**FUTURE COUNCIL-INITIATED AGENDA ITEMS**

No items were identified.

**ADJOURNMENT**

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 10:36 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**IRMA TORREZ, CITY CLERK/AGENCY SECRETARY**